



Doing Business In Australia: A Country Commercial Guide for U.S. Companies

Chapter 6: Investment Climate

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Chapter 6: Investment Climate

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Openness to Foreign Investment

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The Australian Government generally welcomes foreign investment, and the United States is the country's largest source of foreign capital. Total U.S. investment in Australia, including both direct and portfolio investment, was US\$271 billion in 2004. This accounted for nearly 32 percent of total foreign investment in Australia. Australia's foreign investment policy, as laid out in its general investment guidelines, is: "to encourage foreign investment consistent with community interests. In recognition of the contribution that foreign investment has made and continues to make to the development of Australia, the general stance of policy is to welcome foreign investment. Foreign investment provides scope for higher rates of economic activity and employment

than could be achieved from domestic levels of savings. Foreign direct investment also provides access to new technology, management skills and overseas markets."

Takeovers of domestic firms by foreign investors, while sometimes generating nationalistic public reaction, are generally not interfered with, and are treated under the same guidelines as any other investment. However, in recent years there has been increasing public and media interest in foreign investment proposals. There are no prohibitions on overseas investment or capital repatriation.

The Foreign Investment Review Board

The Federal Department of Treasury regulates foreign investment with the assistance of the Foreign Investment Review Board (FIRB). The Board screens investment proposals for conformity with Australian law and policy. Regulation of foreign investment is based on the Foreign Acquisitions and Takeovers Act, (FATA) 1975 and the Foreign Acquisitions and Takeovers Regulations 1989. A full statement of Australia's foreign investment policy can be found at:

<http://www.firb.gov.au/content/Publications/AnnualReports/2003-224/index.asp>

The investment screening mechanism administered by the FIRB tracks foreign investment developments through a notification system. If certain criteria are present, specific proposals are examined. Under the Free Trade Agreement between the U.S. and Australia (AUSFTA), which entered into force on January 1, 2005, separate investment criteria and thresholds apply to U.S. investors.

Under the AUSFTA, Australia has committed to significant liberalization of its foreign investment regime, as it applies to U.S. investors, while preserving the main feature of that regime, namely, the ability to ensure that significant U.S. investment proposals are in the national interest. The following changes to Australia's foreign investment policy were agreed under the AUSFTA:

- exemption from the FATA of acquisitions in financial sector companies, as defined by the Financial Sector (Shareholdings) Act 1998;
- introduction of a screening threshold of A\$800 million (indexed annually to the GDP implicit price deflator) of acquisitions in Australian businesses in non-sensitive sectors;
- introduction of a screening threshold of A\$50 million (indexed annually to the GDP implicit price deflator) of acquisitions in Australian businesses in defined sensitive sectors. The sensitive sectors are:
- media;
 - telecommunications;
 - transport (including airports, port facilities, rail infrastructure, international and domestic aviation and shipping services provided either within, or to and from, Australia);
 - the supply of training or human resources, or the manufacture or supply of military goods or equipment or technology, to the Australian Defense Force or other defense forces;
 - the manufacture or supply of goods, equipment or technology able to be used for a military purpose;

- the development, manufacture or supply of, or the provision of services relating to, encryption and security technologies and communications systems; and
- the extraction of (or holding of rights to extract) uranium or plutonium or the operation of nuclear facilities;
- introduction of a minimum screening threshold of A\$50 million (indexed to the GDP implicit price deflator) for acquisitions by entities in which the United States Government has a prescribed interest;
- introduction of a screening threshold of A\$800 million (indexed annually to the GDP implicit price deflator) for acquisitions in non-residential developed commercial property (other than accommodation facilities); and
- removal of existing policy-based screening requirements for the establishment of new Australian businesses other than where the investment involves the United States Government.

The FIRB must be notified of investment proposals in the following categories (Note: A\$1= US\$0.76):

- Acquisitions of substantial interests (15 percent by a single foreigner and 40 percent in aggregate) in existing Australian businesses, the value of whose assets exceeds A\$50 million or where the proposal values the business at over A\$50 million. For U.S. investors a notification threshold of A\$800 million instead applies, except for investments in prescribed sensitive sectors or by an entity controlled by the U.S. Government, which are subject to a A\$50 million threshold. The FATA does not apply to investments by U.S. investors in those financial sector entities that are subject to the operation of the Financial Sector (Shareholdings) Act 1998;
- plans to establish new businesses involving a total investment of over A\$10 million or more. Proposals by U.S. investors, except an entity controlled by a U.S. Government, do not require notification but remain subject to other relevant policy requirements;
- portfolio investments in the media of 5 percent or more, and all non-portfolio investments irrespective of size;
- takeovers of offshore companies whose Australian subsidiaries are valued at A\$50 million or more, or the applicable U.S. investor threshold of either A\$800 million or A\$50 million;
- direct investments by foreign governments or their agencies, irrespective of size;
- acquisitions of interests in urban land that involve:
 - developed non-residential commercial real estate, where the property is subject to heritage listing, valued at A\$5 million or more and the acquirer is not a U.S. investor.
 - developed non-residential commercial real estate, where the property is not subject to heritage listing, valued at A\$50 million or more, or A\$800 million for U.S. investors;
 - accommodation facilities regardless of value;
 - vacant urban real estate regardless of value;
 - residential real estate regardless of value; and
 - proposals where any doubt exists as to whether they are notifiable.

The FIRB uses a national interest test to examine foreign investment proposals. Proposals are evaluated according to their consistency with existing government policy

and law, where these are taken to define important aspects of national interest (for example, competition policy and environmental laws). Also, national security interests and economic development priorities are considered. However, it is the Federal Treasurer, under the authority of the FATA, who ultimately decides whether or not an investment is contrary to the national interest. The most recent instance of a major investment proposal being rejected involved Shell Investments Ltd's proposed acquisition of Woodside Petroleum Ltd in April 2001. This proposed A\$9.7 billion acquisition was rejected by the Federal Treasurer on national interest grounds.

During FY 2004 4,830 proposals for investment in Australia were considered by the FIRB: 4,447 were approved (3,452 with conditions), 64 rejected (all in the real estate sector) and 319 were withdrawn (the remainder were judged exempt). Of the conditional approvals, 3,399 were in the real estate sector. Conditions were related to the period during which the development should commence, the need for temporary residents to sell established properties when they cease to reside in Australia or the imposition of reporting requirements on "off the plan" sales. The value of total approvals in FY 2004 was A\$102.1 billion, a 19 percent increase on the previous year's approvals of A\$86 billion. The value of total rejections was A\$0.1 billion. The U.S. remained one of the largest sources of proposed foreign investment in Australia during 2002-03, accounting for around 29 percent of the total. The U.S. has objected to the continued utilization of this screening mechanism with its relatively broad national interest test.

Sector-specific regulation

Media:

All direct (i.e non-portfolio) proposals by foreign interests to invest in the media sector irrespective of size are subject to prior approval. Proposals involving portfolio share holdings of 5 percent or more must also be submitted for examination. The Broadcasting Services Act of 1992 provides that a foreign person may not exercise control of a television license, or have company interests in such a license exceeding 15 percent or 20 percent in aggregate held by two or more foreign persons. No more than 20 percent of directors may be foreign persons. Foreign investors are limited to a 20 percent share individually and a 35 percent share in aggregate of any subscription TV broadcaster.

There are not, however, any foreign ownership and control limits on commercial radio or on other broadcasting services under the Broadcasting Services Act. Foreign investment in mass circulation newspapers is also limited. A single foreigner may hold a minor share of 25 percent and unrelated foreign interests may hold an additional 5 percent, for a total not to exceed 30 percent. Additionally, aggregate foreign interest or direct involvement in provincial and suburban newspapers is limited to less than 50 per cent for non-portfolio shareholdings. Cross-media control is also limited, restricting the ownership of any combination of commercial TV or radio broadcasting licenses along with a newspaper in the same license area. Both the cross-media and foreign ownership limitations have proven controversial, and are regularly the subject of government review. The Parliament has rejected proposed legislation aimed at removing controls on the foreign ownership of television broadcasting services and providing exemptions to cross media rules in certain circumstances.

Civil Aviation:

Foreign investors (including foreign airlines) can generally expect approval to acquire up to 49 percent of the equity in an Australian international airline (except Qantas), provided

the proposal is not contrary to the national interest. Foreign investors (including foreign airlines) can generally expect approval to acquire up to 100 percent of a domestic carrier (other than Qantas), or establish a new domestic aviation operation, unless this is contrary to the national interest. Under existing bilateral aviation agreements, the limit of 49 percent in any Australian international carrier is based on the commercial risk that such a carrier's ownership structure could see it denied access to a foreign market. In the case of Qantas, existing statutory ownership restrictions imposed when it was privatized are still in place. These limit total foreign ownership of Qantas to 49 percent, ownership by foreign airlines in aggregate to 35 percent, and ownership by an individual (including a foreign carrier) to 25 percent.

Airports:

Foreign investment proposals for acquisitions of interests in Australian airports are subject to examination in accordance with the standard notification requirements outlined above. In relation to the airports offered for sale by the Australian Government, the Airports Act of 1996 stipulates a 49 percent foreign ownership limit, a 5 percent airline ownership limit and cross ownership limits between Sydney airport (including Sydney West) and Melbourne, Brisbane and Perth airports apply.

Telecommunications:

Prior approval is required for foreign participation in the establishment of new entrants to the telecommunications sector or for investment in existing businesses in the sector. Telstra Corporation Ltd (Telstra) is predominantly owned by the Australian Government (51.8 percent) with the remainder of the equity in the partially privatized company held by institutional and individual investors. The Australian Government passed legislation in 2005 which enables the sale of its 51.8 percent share to the private sector (scheduled to begin in 2006), however, aggregate foreign ownership of Telstra will remain restricted to 35 percent of that privatized equity and individual foreign investors restricted to a holding of no more than 5 percent of that privatized equity.

Residential Real Estate:

Foreign persons wishing to acquire an interest in urban land require foreign investment approval (unless exempt under regulation). Proposals that require approval include acquisitions of:

- residential real estate;
- vacant land;
- developed commercial property valued at A\$50 million or more (for commercial heritage listed properties the threshold is A\$5 million);
- accommodation facilities (for example, hotels, guest houses);
- residential and commercial leases where the likely term of the lease is more than 5 years (the term should include any right or option to renew the lease);
- any profit sharing arrangement held over urban land (unless the asset subject to the profit sharing arrangement is developed commercial property valued at less than A\$50 million or heritage listed commercial property valued at less than \$5 million);
- shares in a company or units in a trust that holds more than half its total assets in urban land, except where the urban land owned would not normally require foreign investment approval (for example, developed commercial property with a value less than A\$50 million); or
- proposals where any doubt exists as to whether they are notifiable.

Proposals by foreign investors to acquire developed residential real estate are examined. They normally are not approved except in the cases of foreign companies buying residences for their senior executives living in Australia and foreign nationals temporarily resident in Australia for more than twelve months buying a principal residence for their own use, to be sold upon their departure. For more information on the FIRB, please visit its web site (<http://www.firb.gov.au/>).

Incentives for Investment

Incentives that are available to investors include:

- Research and development tax concessions for companies incorporated in Australia;
- The Commercial Ready program, which offers competitive grants for early-stage commercialization activities, research and development with high commercial potential and proof of concept activities;
- The Pharmaceuticals Partnerships Program (P3) offers R&D incentive grants to established companies in the pharmaceutical sector. Grants consist of payment of 30 cents per dollar spent on eligible increased R&D activities in Australia above a base level of activity.
- Venture capital tax concessions. Capital gains tax exemptions are available for non-resident investment in Australian venture capital. The exemptions apply to investors from the U.S., the U.K., Japan, Germany, France and Canada.
- The Invest Australia Supported Skills (IASS) program is designed to encourage international firms to choose Australia as a location for foreign direct investment by providing streamlined immigration arrangements for eligible employees of an international company that is considering making a significant or strategic investment in Australia.

Hundreds of major foreign firms in most industry sectors invest in Australia. The Australian Federal and State Governments vigorously encourage investment by offering incentives to multinationals to set up regional headquarters for financial and other services, and manufacturing operations. Aimed initially at attracting information technology companies, the campaign has widened in scope to include manufacturing and provision of financial and administrative services for the Asia-Pacific region. The Government touts the benefits of Australia's safe, stable business environment, skilled workforce, and lower facility site and operating costs in comparison to other regional centers, such as Singapore, Hong Kong and Taiwan. For more information on investment incentives visit www.ausindustry.gov.au and www.investaustralia.gov.au.

Conversion and Transfer Policies

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The Australian dollar is a fully convertible currency. The government does not maintain currency controls or limit remittance, loan and lease payments. Such payments are processed through standard commercial channels, without governmental interference or delay.

Expropriation and Compensation

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Private property can be expropriated for public purposes in accordance with established principles of international law. Due process rights are established and respected, and prompt, adequate and effective compensation is paid.

Dispute Settlement

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The Free Trade Agreement between the United States and Australia establishes a dispute settlement mechanism for disputes arising under the Agreement. In the first instance disputes are to be settled through consultation between the parties. Where these consultations are not effective in resolving the dispute, the Agreement provides for an arbitral panel to consider the matter. The dispute settlement mechanism provides for compensation for breaches of the agreement, which may include requiring the breach to be corrected, trade compensation to be provided, or monetary compensation in lieu of trade compensation. The Agreement does not allow private investors to directly challenge government decisions; however, individual investors are able to raise concerns about their treatment by the Australian Government with the United States Government (or vice versa).

Property and contractual rights are enforced through the Australian court system, which is based on English Common Law. There have been no investment disputes involving foreign companies in recent years. Australia is a member of the International Center for the Settlement of Investment Disputes.

Australia has an established legal and court system for the conduct or supervision of litigation and arbitration, as well as alternate dispute processes. The traditional approach to commercial dispute resolution involves litigation, arbitration and more modern methods of alternative dispute resolution. Australia is a world leader in the development and provision of non-court dispute resolution mechanisms. It is a signatory to all the major international dispute resolution conventions and has organizations that provide international dispute resolution processes.

Performance Requirements and Incentives

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Selling to the Government

Australia has not signed the GATT/WTO Agreement on Government Procurement, which means that it is not bound by conditions prohibiting specification of locally made product in tenders. However, the Australian Government procurement policy framework is non-discriminatory. That is, potential suppliers will not be discriminated against on the basis of their degree of foreign affiliation. The Free Trade Agreement with the United States prohibits the use of local preference arrangements and offsets, except in certain circumstances. Notable exceptions to the rule include preferences applying to local small to medium sized enterprises (SMEs). At the Federal level, there is a minimum target of 10 percent SME participation in all government procurements. Non-discriminatory treatment applies to most central government departments and 33 central government enterprises. A number of items, mainly relating to military equipment procurement by the Australian Department of Defence, have been exempted from the Agreement. A number of entities of regional governments are also subject to the Agreement.

The non-discrimination principle applies above certain thresholds. For central government procurement, the thresholds are US\$58,550 (A\$81,800) for goods and services and US\$6,725,000 (A\$9,396,000) for construction services. For regional government entities, the thresholds are US\$477,000 (A\$666,000) for goods and services and US\$6,275,000 (A\$9,396,000) for construction services.

Special Arrangements for Information and Communications Technology (ICT):

The Australian Government ICT procurement arrangements establish voluntary guidelines for ICT suppliers to government. The guidelines encourage government ICT suppliers to undertake strategic activities in Australia such as R&D, exports, technology transfer and alliances with local SMEs. For a contract less than A\$20 million, the only requirement for contractors and sub-contractors will be endorsement under the Endorsed Supplier Arrangement (see below). For contracts above \$20 million, the Government will specify minimum SME participation rates determined by the nature of the contract, with a base level of SME participation of 10 per cent of hardware and 20 per cent of software and services. For the purposes of major ICT contracts, a SME is defined as a body corporate incorporated in Australia or New Zealand, which together with its related corporate and parent entities, has an average annual revenue over the last five financial years of less than A\$500 million. All publicly available business opportunities relating to the central government are notified on the AusTender website. Businesses can register their interest profile on the site and will receive automatic notification of the latest opportunities. Please visit the AusTender website for more information (<https://www.tenders.gov.au/federal/index.shtml>). For more information on the voluntary guidelines, please visit <http://www.dcita.gov.au/>

Under the Endorsed Supplier Arrangement (ESA), companies wishing to supply information technology (IT) products, major office machines (MOM), commercial office furniture and auctioneering services to the Australian Government must gain endorsement. For more information on ESA, please visit <http://www.esa.finance.gov.au/>

Right to Private Ownership and Establishment

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As a general rule, foreign firms establishing themselves in Australia are accorded national treatment. They do not have to seek government permission to establish and own businesses unless their proposed activity meets tests established in law and regulation that trigger notification/review by the FIRB. These FIRB requirements are a matter of public record and are available upon application to FIRB.

Firms may, if they wish, seek "naturalization" (conversion to full Australian status, as opposed to foreign status). To be naturalized, a firm must be at least 51 percent Australian-owned; its articles of association must provide that a majority of its board be Australian citizens; and it must reach an agreement with the Government regarding the exercise of voting powers in respect of the firm's business in Australia. The only practical advantage of naturalization is relief from the requirement that the FIRB be notified of proposed investment activities.

Protection of Property Rights

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Australian law protects patents, trademarks, designs, copyrights and integrated circuit layout rights. Australia is a member of the World Intellectual Property Organization (WIPO), the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention, the Geneva Phonogram Convention, the Rome Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations, and the Patent Cooperation Treaty. The U.S. Free Trade Implementation Bill 2004 included amendments that allow Australia to accede to the WIPO Copyright Treaty 1996 (WCT) and the WIPO Performances and Phonograms Treaty 1996 (WPPT).

IP Australia is the Australian government agency responsible for registrations of patents, trademarks and designs. Contact details for IP Australia are: Tel: 61-2 6283-2999; Fax: 61-2 6283 7999; or <http://www.ipaustralia.gov.au/>. For copyright matters contact the Copyright Law Branch, Attorney-General's Department at: Tel 61-2 6250-6313; Fax 61-2 6250-5929; or at <http://www.ag.gov.au/>.

Patents, Trade Secrets, Designs:

Patents are available for inventions in all fields of technology and are the principal system for protecting ownership of any device, substance, method or process that is new or inventive. They are protected by the Patents Act of 1990, which offers coverage for 20 years, subject to renewal. An application for patent in Australia provides international priority rights if applications follow in overseas jurisdictions within 12 months.

Under the United States - Australia Free Trade Agreement, the Australian government agreed to provide measures to prevent the marketing of a generic version of a pharmaceutical before the patent on that product expired. However, the United States had raised concerns with Australia that its FTA implementing legislation, which its Parliament passed in August 2004, did not fully implement a number of the FTA commitments it made on intellectual property. Australia has committed to take steps, including legislative and regulatory changes, to address these issues.

Australian regulations provide 5 years of protection of test data submitted to regulatory authorities for marketing approval of new pharmaceutical products and 10 years of protection to undisclosed data submitted with an application for marketing approval for a new agricultural product, when that approval is given in combination with the marketing approval of certain additional uses of the same product.

Design features, such as shape or pattern, can be protected from imitation by registration under the Designs Act of 1906 for up to 16 years. An important aspect of a design is that it must be applied industrially. Registration cannot be granted for a design that is purely artistic. Only the owner of the design can make an application for registration.

Trademarks

Trademarks may be protected for ten years and renewed indefinitely, upon request by registration under the Trademarks Act of 1995. Once used, trademarks may also, without registration, be protected by common law; however registration with IP Australia does make enforcement easier. It is wise for any U.S. exporter intending to market a product in Australia to check with the Trademarks Office at IP Australia to ensure that its mark or name is not already in use.

Copyrights

36. Copyrights are protected under the Copyright Act of 1968, which has been amended by the U.S. Free Trade Implementation Bill 2004 and the Copyright Amendment Act 2004, to meet the obligations of the Australia-U.S. Free Trade Agreement. Works do not require registration, and copyrights automatically subsist in original literary, artistic, musical and dramatic works, film and sound recordings. Copyright protection is for the life of the author plus 70 years. For sound recordings and films, protection is 70 years after publication. The Australian Copyright Act provides protection and against video piracy and unauthorized third-country imports.

Transparency of Regulatory System

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Australia subscribes to the 1976 declaration of the Organization for Economic Cooperation and Development (OECD) concerning international investment and multinational enterprises. The instruments cover national treatment and investment incentives and disincentives, and spell-out voluntary guidelines for the conduct of multinational enterprises in member countries. Australia also subscribes to two OECD codes of liberalization, one covering capital movements and the other invisible transactions.

Both Australian law and government practices foster transparency and favor competition. Taxation policy does not impede the efficient mobilization and allocation of investment, although there are a number of differences between the U.S. and Australian tax systems that have potential implications for business. Businesses are advised to seek counsel from accounting and law firms familiar with the tax policies of both countries.

In early 1990, the Australian Taxation Office and the Internal Revenue Service formalized a simultaneous audits agreement to investigate suspected non-compliance with tax laws of both countries. The U.S. - Australia Double Taxation Treaty affects business investment between the two countries. The Treaty, effective since 1983, applies to federal income tax of the U.S., excluding accumulated earnings tax, personal holding company tax and Australian income tax. Separate agreements apply to gift and estate taxes.

Australia and the United States concluded negotiations to revise the Treaty in September 2001. A key objective is to provide a competitive tax treaty for companies located in Australia by reducing the rate of dividend withholding tax on U.S. subsidiaries and branches of Australian companies. Another objective is to prevent double taxation of capital gains derived by U.S. residents from interests in Australian entities while retaining Australian taxation rights. The Controlled Foreign Corporation and Controlled Foreign Trusts legislation, effective July 1, 1991, provides for taxing income that accrues to corporations or trusts, arranged after residency is established.

Capital Markets and Portfolio Investment

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Australia has a well-developed and sophisticated financial market, regulated in accordance with international norms. The stock and commodities exchanges have corresponding arrangements with other world exchanges. Credit is allocated on market terms.

Political Violence

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As in all liberal democracies, political protests (e.g., rallies, demonstrations, marches, public conflicts between competing interests) form an integral part of Australian cultural life. Australian protests cover the broad range of current issues and interests: ethnic and aboriginal concerns, pro- and anti-right wing demonstrations, community and environmental issues and denunciations of government policies, to name a few. Such protests, while often vociferous, rarely degenerate into violence. In late 2005, a large protest was staged on a Sydney beach in which incidents of racially motivated violence against persons of middle-eastern appearance were reported to have occurred. Authorities moved quickly to quell the violence and have taken significant measures to prevent repeat incidences. There have not been any reports that this incident has affected the investment climate.

Corruption

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Australia maintains a thorough system of laws and regulations designed to counter corruption. In addition, the government procurement system generally is transparent and well regulated, thereby minimizing opportunities for corrupt dealings. Accordingly, corruption has not been a factor cited by U.S. businesses as a disincentive to investing in Australia, or to exporting goods and services here. Non-governmental organizations interested in monitoring the global development or anti-corruption measures, including Transparency International, operate freely in Australia. Australia is perceived internationally as having low corruption levels, as demonstrated by Transparency International's Corruption Perception Index 2005, which ranked Australia ninth, ahead of the U.K., Canada and the U.S. in terms of nations perceived as having low levels of corruption.

Australia is an active participant in international efforts to end the bribery of foreign officials. Legislation to give effect to the anti-bribery convention stemming from the OECD 1996 Ministerial Commitment to Criminalize Transnational Bribery was passed in 1999. Legislation explicitly disallowing tax deductions for bribes of foreign officials was enacted in May 2000. At the federal level, enforcement of anti-corruption laws and regulations is the responsibility of the Attorney General's Department.

Bilateral Investment Agreements

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Australia has signed Free Trade Agreements with the United States, Thailand and Singapore, all of which contain chapters on investment. See section A.1.a for details on U.S. specific investment arrangements. Australia also has a Free Trade Agreement with New Zealand. While this agreement does not contain a specific section on investment, both countries have undertaken significant liberalization of their investment regimes vis-

à-vis the other party. Both countries agreed in early 2005 to investigate the possibility of adding an investment chapter to the agreement. Australia is currently negotiating agreements with the United Arab Emirates, Malaysia, ASEAN and China, all which are expected to contain undertakings relating to investment liberalization.

OPIC and Other Investment Insurance Programs

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Australia provides foreign investment insurance to its firms investing abroad through the Export Finance and Insurance Corporation (EFIC). The U.S. Overseas Private Investment Corporation (OPIC) does not extend coverage to Australia, as it is not a high-risk or developing country

Labor

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Australia has maintained low inflation and steady economic growth during the past few years, which has produced moderate real wage growth, skills shortages in some sectors and relatively few industrial disputes. In 2005, annual average weekly earnings in Australia grew by 4.6 percent, which was ahead of the inflation rate of 3.0 percent. National skills shortages exist in a range of professions and general trades, including the information and communication technology sector, civil engineering, childcare, health sciences and teaching professions. In September quarter 2005, 53.9 working days per thousand employees were lost due to strikes, a decrease of almost seven percent over the same period in 2004. The construction industry had the highest number of working days lost. For more information on skills shortages, see (<http://www.workplace.gov.au/workplace/Category/Publications/LabourMarketAnalysis/VacancyReports/>)

The Government enacted labor laws that dissolved remnant powers of Australia's centralized arbitration system. Known as 'Work Choices', the reforms established a universal agreement-making system and enshrined a set of minimum legislative standards. It also restricted union involvement in workplaces and gave employers more flexibility in hiring and firing employees. Finally, the laws established the Australian Fair Pay Commission to fix on future minimum wage increases. In its last minimum wage ruling in June, the AIRC approved a 3.6 percent increase to the minimum wage set out in federal awards. The decision raised the federal minimum wage for the standard 38 hour week to A\$484.40. For information on local employment conditions, see <http://www.wagenet.gov.au/WageNet/HomePage/HomePage.asp>.

Other Federal laws set specific employment conditions. For instance, the Superannuation Guarantee (Administration) Act 1992 established Australia's pension system. This compulsory, defined-contribution pension fund differs significantly from the U.S. Social Security system since it is privately run, and firms and their employees choose which investment company or companies will administer the funds. From July 1, 2002, employers were required by law to contribute a minimum of nine percent of each employee's base salary into that employee's superannuation account and employees can choose to make additional contributions. For more information on superannuation, see (<http://www.ato.gov.au/super/default.asp>)

In 2001, the government established the General Employees Entitlements Redundancy Scheme (GEERS), a taxpayer-funded insurance scheme, in response to growing community concerns about the loss of employee entitlements after several companies collapsed. Employees currently stand ahead of unsecured creditors, but behind lenders with fixed security in the creditors queue following a company collapse.

The Australian Government is nominally a party to all International Labor Organization (ILO) conventions. The Government does not regard ratification of ILO conventions as a high priority.

Foreign-Trade Zones/Free Ports

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The Commonwealth Government introduced the "Manufacturing-in-Bond" (MIB) scheme in 1997. This allows export manufacturers to import components and materials free from up-front customs, excise and sales tax charges, provided the goods produced are subsequently exported. Goods become subject to duties and taxes if removed for sale or use in Australia.

Foreign Direct Investment Statistics

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The level of foreign direct investment (FDI) in Australia in 2004 totaled A\$153 billion (US\$113 billion), or 18.1 percent of GDP. Of the total, the U.S. accounted for 44.7 percent, while 12.6 percent was accounted for by the U.K. FDI inflows during 2004 were equivalent to around seven percent of GDP.

TABLE 1: FOREIGN DIRECT INVESTMENT LEVELS (US\$m)

Foreign Direct Investment in Australia				Aust. Direct Investment Abroad		
	2002	2003	2004	2002	2003	2004
Canada	5,326	8,276	8,124	2,067	1,451	670
France	5,286	6,216	7,727	120	58	np
Germany	7,550	7,670	8,413	559	698	2,644
Japan	16,584	18,370	17,310	350	333	245
Neth'lds	11,954	11,978	16,417	5,150	4,419	5,298
N.Z.	5,427	6,888	7,810	16,013	19,847	24,332
Singapore	2,863	3,291	4,216	1,334	1,563	963
Switz.	9,685	10,854	11,335	np	np	np
U.K.	55,422	47,318	43,183	43,986	40,264	46,684
U.S.A.	70,643	83,128	153,207	91,464	102,993	140,343
Other	59,347	62,518	64,847	31,169	29,351	32,829
Total	250,087	266,507	342,589	192,212	200,977	254,008

TABLE 2: FOREIGN DIRECT INVESTMENT TRANSACTIONS (A\$m)

Foreign Investment in Australia				Aust. Investment Abroad		
	2002	2003	2004	2002	2003	2004

Canada	3,067	2,427	870	229	-252	-478
France	501	638	244	-78	8	np
Germany	790	530	893	569	-240	-779
Japan	2,702	1,957	144	np	76	49
Neth'lds	2,048	761	3,981	-801	668	5
N.Z.	1,267	620	394	1,184	-5,216	-3,835
Singapore	np	403	2,609	840	-626	102
Switz.	1,108	2,477	1,994	np	-208	118
U.K.	799	-8,686	-1,381	-5,204	-3,151	-1,656
U.S.A.	7,198	10,969	53,189	-10,661	-14,139	-16,157
Other	13,065	2,817	-6,447	-872	-854	-1,036
Total	32,545	14,913	56,490	-14,794	-23,934	-23,667

Notes:

- Source: Australian Bureau of Statistics, International Investment Position, Supplementary Country Statistics, 2004.
- For transactions, a negative figure represents a capital outflow (from Australia), a positive figure a capital inflow (into Australia).
- Australian Exchange rates:
CY 2004: A\$1.00 = US\$0.74

Web Resources

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Attorney-General's Department: <http://www.ag.gov.au/>
 AusTender: <https://www.tenders.gov.au/federal/index.shtml>
 Australian Government: Wage Net (local employment conditions):
<http://www.wagenet.gov.au/WageNet/HomePage/HomePage.asp>.
 Australian Government: Workplace (employment and workplace relations):
<http://www.workplace.gov.au/workplace/Category/Publications/LabourMarketAnalysis/VacancyReports/>)
 Australian Industry (investment incentives): www.ausindustry.gov.au
 Australian Taxation Office (Superannuation): <http://www.ato.gov.au/super/default.asp>
 Department of Communications, Information Technology and the Arts:
<http://www.dcita.gov.au/>
 Endorsed Supplier Arrangement: <http://www.esa.finance.gov.au/>
 Foreign Investment Review Board: <http://www.firb.gov.au/>
 Invest Australia (investment incentives): www.investaustralia.gov.au
 IP Australia: <http://www.ipaustralia.gov.au/>

U.S. exporters seeking general export information/assistance or country-specific commercial information should consult with their nearest **Export Assistance Center** or the **U.S. Department of Commerce's Trade Information Center** at (800) USA-TRADE, or go to the following website: <http://www.export.gov>.

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